

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

SOVERAIN SOFTWARE LLC,

Plaintiff,

v.

CDW CORPORATION,

NEWEGG INC.,

REDCATS USA, INC.

SYSTEMAX INC.,

ZAPPOS.COM, INC.,

REDCATS USA, L.P.,

THE SPORTSMAN'S GUIDE, INC.,

AND

TIGERDIRECT, INC.,

Defendants.

Case No. 6:07-CV-00511-LED

JURY TRIAL DEMANDED

AMENDED P.R. 4-3 JOINT CLAIM CONSTRUCTION
AND PREHEARING STATEMENT

Pursuant to P.R. 4-3, the Court's Docket Control Order, as amended, and in response to the March 24, 2009 Court Order granting leave to file (Dkt. No. 192), the parties hereby submit this Amended Joint Claim Construction and Prehearing Statement, to which all parties have agreed. Plaintiff Soverain Software LLC ("Soverain") is making this filing on behalf of itself and all remaining defendants.

I. AGREED CONSTRUCTIONS

The parties have agreed upon the construction of the following claim terms, phrases, and clauses appearing in U.S. Pat. No. 5,715,314 (“’314 patent”), U.S. Pat. No. 5,909,492 (“’492 patent”), and U.S. Patent No. 7,272,639 (“’639 patent”):

Claim Term, Phrase or Clause	Patent Claim	Agreed Construction
Message	’314 patent, Claims 34, 35, 39, 49, 74, 84, 109, 134, 144 ’492 patent, Claim 17, 18, 35, 36	a unit of information sent electronically
Plurality of products added to . . . shopping cart / [Add a plurality of respective products to a shopping cart	’314 patent, Claims 34, 36, 39 ’492 patent, Claim 17, 18, 35, 36	product identifiers which are added to an instance of a shopping cart in the shopping cart database / [add] identifiers of respective products to an instance of a shopping cart
Shopping cart	’314 patent: Claims 34, 36, 39 ’492 patent, Claims 17, 18, 35, 36	a stored representation of a collection of products
Shopping cart database	’314 patent, Claims 34, 39 ’492 patents, Claims 17, 18, 35, 36	a database of stored representations of collections of products where “database” means a collection of logically related data stored together in one or more computerized files
An identifier of a purchaser	’639 patent, Claim 62	a text string that identifies a purchaser
Charging the user . . . according to the user information	’639 patent, Claim 60	charging an account associated with the user according to the user information

Claim Term, Phrase or Clause	Patent Claim	Agreed Construction
Durable product	'639 patent, Claim 68	physical product
Forwarding . . . from the client to the server system	'639 patent, Claim 1	sending . . . from the client to the server system
Fulfilling the purchase request based on the user information	'639 patent, Claim 60	carrying out the purchase request based on the user information
Returning	'639 patent, Claims 1, 47, 79	sending back
user identifier	'639 patent, Claim 60	a text string that identifies a user

II. DISPUTED CONSTRUCTIONS

Exhibit A is a side-by-side comparison of the parties' proposed constructions of the terms, phrases, and clauses that are still in dispute.

Exhibit B sets forth Soverain's proposed constructions of the disputed claim terms, phrases, or clauses, together with an identification of references from the specifications or prosecution histories supporting those constructions, and an identification of any extrinsic evidence known to Soverain on which it intends to rely either to support its proposed constructions or to oppose the constructions proposed by the defendants.

Exhibit C sets forth the defendants' proposed constructions of the disputed claim terms, phrases, or clauses, together with an identification of references from the specifications or prosecution histories supporting those constructions, and an identification of any extrinsic evidence known to the defendants on which they intend to rely either to support their proposed constructions or to oppose the constructions proposed by Soverain.

Exhibit D sets forth Systemax and TigerDirect's proposed construction of the term "shopping cart computer," together with an identification of references from the specifications or prosecution histories supporting that construction, and an identification of any extrinsic evidence known to Systemax and TigerDirect on which they intend to rely either to support their proposed construction or to oppose the construction for "shopping cart computer" proposed by Soverain.

Exhibit E sets forth terms which defendants Newegg Inc., Systemax Inc, and TigerDirect, Inc. adopted from the *Amazon* Markman Order, Civil Action 6:04-cv-14, and for which one or more of these defendants expressly preserved the right of appeal. Specifically, Exhibit E contains an identification of the record, upon which an appeal from the adopted claim constructions is to be based.

III. LENGTH OF TIME NEEDED FOR CLAIM-CONSTRUCTION HEARING

The parties suggest that approximately four hours be set aside for the claim-construction hearing.

IV. WITNESSES

No party will call any witnesses at the claim-construction hearing.

V. NO ISSUES FOR A PREHEARING CONFERENCE

At this time, the parties do not believe there are any issues to be taken up at a Prehearing Conference.

Dated: March 25, 2009

Respectfully submitted,

/s/ Ognian V. Shentov (with permission)

Kenneth R. Adamo
State Bar No. 00846960
Lead Attorney
Email: kradamo@jonesday.com

Mark C. Howland
State Bar No. 24027240
Email: mchowland@jonesday.com

JONES DAY
2727 North Harwood Street
Dallas, Texas 75201-1515
Telephone: 214-220-3939
Facsimile: 214-969-5100

Thomas L. Giannetti
NY Attorney Reg. No. 1632819
Email: tlgiannetti@jonesday.com

Ognian V. Shentov
NY Attorney Reg. No. 2867737
Email: ovshentov@jonesday.com

JONES DAY
222 East 41st Street
New York, New York 10017-6702
Telephone: 212-326-3939
Facsimile: 212-755-7306

ATTORNEYS FOR PLAINTIFF